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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,179	02/10/2005	Wanda Susanne Kruijt	NL 020763	2823

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER	
ZETTL, MARY E	
ART UNIT	**PAPER NUMBER**
2875	

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/524,179	KRUIJT ET AL.	
	Examiner	Art Unit	
	Mary Zettl	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 July 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *10 February 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

1. As stated in the previous office action, claims 1, 2, 3, 4, 7, 8, 9, and 10 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 7, 7, 8, 8, 7, 3, 9, 7, and 7 of copending Application No. 10/524,181. Although the conflicting claims are not identical, they are not patentably distinct from each other because the same essential components are present in both applications, the only differences are obvious alternatives. As noted, '181 fails to require that each lamp "can be cooled." However, both claim 1 of the present application and claim 7 of '181 include a channel "through which air can flow" and into which the lamp extends. In addition, it is well known in the art that flowing air

causes cooling in illumination means, which tend to heat up. Therefore, it would have been obvious to allow the lamps in the channels of '181 to be cooled, as required by the present claims. In regard to claim 4, '181 teaches a fan, but does not specify the fan extracting air or blowing air at a location between the two lamps. It would have been obvious that the function of a fan is to extract or blow air and that the air that it would be extracting or blowing would be the air located between the two lamp parts.

2. Applicant's discussion of a double patenting rejection and Appeal No. 1998-0425 (which can not be cited as precedent) is interesting and has been considered. However, the facts in that case are inconsistent with the present rejection. In that case, the alleged "prior art" teaching came from a patent to the same inventors that could not have been cited as prior art against the application. In other words, there was no obvious difference since the change was known only to the inventors. In the present case, the difference between the present application and '181 is one that is well known and would have been obvious to one of average skill in the art. As noted in MPEP 804 a provisional double patenting rejection, based on an applicants' copending application, with or without secondary reference, is clearly proper.

3. Claims 5 and 15 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 7 of copending Application No. 10/524,181 in view of Lengyel et al. (US 5,907,222 A). Although the conflicting claims are not identical, they are not patentably distinct from each other because it would have been obvious to have included a sensor for measuring the temperature as taught by Lengyel et al. (placing the temperature sensor near cathode;

col. 17, line 19) such that the system only provided the necessary cooling and was thus more power efficient.

4. Claims 6, 16, 18, and 19 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 7 of copending Application No. 10/524,181 in view of Uehara et al. (US 5,726,722 A). Although the conflicting claims are not identical, they are not patentably distinct from each other.

Regarding claims 6 and 16, it would have been obvious to one of ordinary skill to have provided recesses between the lamp parts to allow air to pass through, as taught by Uehara et al. (11). This would have been an obvious means for allowing cooling air to pass to the lamp parts and thus prevent a shortened life due to overheating.

Regarding claim 18, Uehara et al. teach a flexible material (16) abutting against a lamp. At the time the invention was made, it would have been obvious to one of ordinary skill in the art to have abutted the lamp with a flexible material in order to prevent invasion of dirt particles into the lamp chamber which otherwise results in a degradation of output light.

Regarding claim 19, copending Application No. 10/524,181 discloses a diffuser plate abutting against the housing in a dust-tight manner, however does have a claim that embodies the diffuser together with the other limitations of claim 19. Uehara et al. teach a diffuser plate (7; col. 8, line 13) abutting against the housing. At the time the invention was made, it would have been obvious to have included a diffuser plate as taught by Uehara et al. in order to provide a more uniform distribution of light. Furthermore it would have been obvious to abut the diffuser against the housing in dust-

tight manner so as to prevent contamination of dirt particles and degradation of output light.

5. Claims 11-20 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 17 and 18 of copending Application No. 10/524181. Although the conflicting claims are not identical, they are not patentably distinct from each other because the plurality of lamps in the present application is an obvious duplication of parts given the lamp in the copending application. In addition, the use of fluorescent lamps (claim 12) is a well known and obvious type of lamp to use in a backlight device. In regard to claim 14, it is inherent that the fan either extract or blow. It is further noted that the structure and parts listed in claims 13-20 do not further limit the **method** of **lighting** a liquid crystal display.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Objections

6. Claims 1, 12, 13, 15, and 20 are objected to because of the following informalities:

Regarding claim 1, line 1, "in particular" is indefinite.

Regarding claim 12, line 1, "tube-like" is indefinite.

Claims 13, 15, and 20 appear to be missing text.

Appropriate correction is required.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mary Zettl whose telephone number is (571) 272-6007. The examiner can normally be reached on M-F 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Renee Luebke can be reached on (571) 272-2009. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MZ

RENEE LUEBKE
PRIMARY EXAMINER